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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,251	09/25/2001	Gina E. Kelly	ATL 271	8579
28159 7590 05/18/2007 PHILIPS MEDICAL SYSTEMS PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3003 22100 BOTHELL EVERETT HIGHWAY BOTHELL, WA 98041-3003			EXAMINER NAJARIAN, LENA	
			ART UNIT 3626	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/963,251	Applicant(s) KELLY ET AL.	
	Examiner Lena Najarian	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. The finality of the rejection of the last Office action is withdrawn due to the new grounds of rejection presented in this Office action. Claims 1-23 remain pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Exemplary claim 1 recites "a case study presented in a computerized display...."

The current claim language does not clarify that a computer processor or structure is part of the recited system.

In particular, the claim does not define any structural and functional interrelationships between the recited "case study" and other elements of a computer, which permit the functionality to be realized. (See MPEP § 2106)

For a claimed invention to be statutory, the claimed invention must also produce a useful, concrete, and tangible result. Under this analysis, the present language of exemplary claim 1 merely recites non-functional descriptive material, as no recitation of executable code being embodied on any medium or data structure is provided. Simply stated, the invention of claim 1 fails to have a tangible result.

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In light of the above, it is respectfully submitted that the invention of claims 1-23, does not have a tangible result, and thus fails to recite the practical application of an abstract idea to satisfy the requirements of 35 U.S.C. 101.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. The recited step of exemplary claim 1 of "presented in a computerized display" does not make it clear whether the computer is part of the claim or if all that is claimed is the display on the screen.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 6-7, and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 6,546,230 B1) in view of Eckmann (4,539,435).

(A) Referring to claim 1, Allison discloses a computer based-interactive medical training system (col. 2, lines 1-13 of Allison).

Allison does not expressly disclose a case study presented in a computerized display in a virtual patient chart format for a patient exhibiting a given medical condition, wherein the virtual patient chart format simulates realistic aspects of a patient chart of medical records.

Eckmann discloses a case study presented in a display in a virtual patient chart format for a patient exhibiting a given medical condition, wherein the virtual patient chart format simulates realistic aspects of a patient chart of medical records (col. 4, lines 47-50, col. 5, lines 58-68, and Fig. 1 of Eckmann).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Eckmann within Allison. The motivation for doing so would have been to present an educational module that presents realistic patient problems (col. 5, lines 58-68 of Eckmann).

(B) Referring to claim 2, Allison discloses wherein the virtual patient chart further comprises diagnostic reports of a plurality of diagnostic imaging modalities (col. 6, lines 42-51 and col. 2, lines 28-32 of Allison)

(C) Referring to claim 3, Allison discloses wherein the diagnostic reports further comprise diagnostic reports on the given medical condition (col. 1, lines 19-23 of Allison).

(D) Referring to claim 4, Allison discloses wherein the diagnostic reports further comprise diagnostic images from the plurality of diagnostic imaging modalities (col. 2, lines 28-42 of Allison).

(E) Referring to claim 6, Allison does not disclose wherein the virtual patient chart further comprises general medical information on the given medical condition.

Eckmann discloses wherein the virtual patient chart further comprises general medical information on the given medical condition (col. 6, lines 1-9 of Eckmann).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Eckmann within Allison. The motivation for doing so would have been to provide pertinent information, such as symptoms associated with the condition, to determine the best course of action (col. 6, lines 1-9 and 33-35 of Eckmann).

(F) Referring to claim 7, Allison does not disclose wherein the general medical information further comprises one or more of typical findings for a given pathology, signs, symptoms, treatment and prognosis for the given medical condition.

Eckmann discloses wherein the general medical information further comprises treatment for the given medical condition (col. 8, lines 37-38 of Eckmann). Insofar as the claim recites "one or more of," it is immaterial whether or not the other elements are also disclosed.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Eckmann within Allison. The motivation for

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doing so would have been to indicate an acceptable method of treatment (col. 8, lines 37-38 of Eckmann).

(G) Referring to claim 9, Allison discloses a test on the comprehension or application of the information (col. 2, lines 1-13 of Allison).

Allison does not disclose information of the virtual patient chart.

Eckmann discloses information of the virtual patient chart (col. 4, lines 47-57 and col. 6, lines 52-68 of Eckmann).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Eckmann within Allison. The motivation for doing so would have been for a student to be tested on how they would diagnose and treat a patient given a certain scenario (col. 6, lines 52-68 of Eckmann).

(H) Referring to claim 10, Allison does not disclose wherein the test comprises a test which is available following review of some or all of the material of the virtual patient chart.

Eckmann discloses wherein the test comprises a test which is available following review of some or all of the material of the virtual patient chart (col. 4, lines 47-58 and col. 5, lines 58-68 of Eckmann).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Eckmann within Allison. The motivation for doing so would have been for the physician to be tested when ready (col. 4, lines 53-57 of Eckmann).

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(I) Referring to claim 11, Allison does not disclose wherein the virtual patient chart is presented by a computer, and wherein the test is scored by the computer presenting the patient chart.

Eckmann discloses wherein the virtual patient chart is presented by a computer (col. 3, lines 38-40 of Eckmann), and wherein the test is scored by the system presenting the patient chart (Fig. 1, col. 2, line 54 – col. 3, line 5, and col. 6, lines 33-37 of Eckmann).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Eckmann within Allison. The motivation for doing so would have been for the interaction to occur at a single location (col. 3, lines 23-30 of Eckmann).

(J) Referring to claim 12, Allison discloses wherein the training is presented by a computer, and wherein the test is scored by a computer connected to the computer presenting the training (col. 10, lines 30-35 of Allison).

Allison does not disclose that the training includes a virtual patient chart.

Eckmann discloses a virtual patient chart (col. 4, lines 47-50, col. 5, lines 58-68, and Fig. 1 of Eckmann).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Eckmann within Allison. The motivation for doing so would have been to present an educational module that presents realistic patient problems (col. 5, lines 58-68 of Eckmann).

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8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 6,546,230 B1) in view of Eckmann (4,539,435), and further in view of Gray (6,149,585).

(A) Referring to claim 5, Allison and Eckmann do not disclose wherein the diagnostic reports further comprise instruction that a given diagnostic modality is not appropriate or deemed necessary to diagnose the given medical condition.

Gray discloses wherein the diagnostic reports further comprise instruction that a given diagnostic modality is not appropriate or deemed necessary to diagnose the given medical condition (col. 1, lines 46-54 and col. 6, lines 50-64 of Gray).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Gray within Allison and Eckmann. The motivation for doing so would have been to reduce the cost of healthcare (col. 1, lines 45-48 of Gray).

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 6,546,230 B1) in view of Eckmann (4,539,435), as applied to claim 1 above, and further in view of Garcia (5,065,315).

(A) Referring to claim 8, Allison and Eckmann do not disclose wherein the virtual patient chart further comprises at least one of laboratory reports and pathology specimen pictures.

Garcia discloses wherein the patient chart further comprises laboratory reports (col. 1, lines 16-23 of Garcia). Insofar as the claim recites "at least one of," it is immaterial whether or not the other elements are also disclosed.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Garcia within Allison and Eckmann. The motivation for doing so would have been for all pertinent documents to be included in the patient's file (col. 1, lines 16-23 of Garcia).

10. Claims 13-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 6,546,230 B1) in view of Eckmann (4,539,435), and further in view of Ramshaw et al. (5,791,907).

(A) Referring to claim 13, Allison and Eckmann do not expressly disclose a tutorial presented in a computerized display, the tutorial presenting one or more teaching segments of medical information which contain an animation illustrating the medical information being taught.

Ramshaw discloses a tutorial presented in a computerized display, the tutorial presenting one or more teaching segments of medical information which contain an animation illustrating the medical information being taught (col. 2, line 65 – col. 3, line 18, col. 3, lines 50-65, and col. 10, lines 8-10 of Ramshaw).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Ramshaw within Allison and

Eckmann. The motivation for doing so would have been to facilitate the learning process (col. 7, lines 31-33 of Ramshaw).

(B) Referring to claims 14-17, Allison and Eckmann do not expressly disclose wherein a teaching segment further comprises a textual passage describing the medical information and an animation illustrating the medical information, wherein the animation comprises an animated graphic, wherein the animation comprises a moving picture, and wherein the textual passage and the animation are viewable on a computer screen without scrolling.

Ramshaw discloses wherein a teaching segment further comprises a textual passage describing the medical information and an animation illustrating the medical information (Fig. 8A and col. 11, lines 47-65 of Ramshaw), wherein the animation comprises an animated graphic (col. 4, lines 2-12 and col. 10, lines 8-10 of Ramshaw), wherein the animation comprises a moving picture (col. 3, lines 6-18 of Ramshaw), and wherein the textual passage and the animation can be seen on a computer screen without scrolling (Fig. 8B of Ramshaw).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Ramshaw within Allison and Eckmann. The motivation for doing so would have been to provide video or visual windows on the display to facilitate the education and training (col. 4, lines 8-12 of Ramshaw).

(C) Referring to claim 18, Allison discloses wherein a teaching segment further comprises a quiz of the medical information taught in the segment (col. 2, lines 1-13 of Allison).

(D) Referring to claim 19, Allison discloses wherein the number of teaching segments is two or more (col. 2, lines 1-13 of Allison).

(E) Referring to claim 20, Allison and Eckmann do not expressly disclose wherein the quiz further comprises a graphic with which a student interacts to demonstrate knowledge of the medical information.

Ramshaw discloses wherein the quiz further comprises a graphic with which a student interacts to demonstrate knowledge of the medical information (col. 3, lines 6-18 and col. 12, line 60 – col. 13, line 13 of Ramshaw).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Ramshaw within Allison and Eckmann. The motivation for doing so would have been to for a user to be informed whether the input is correct (col. 3, lines 6-18 of Ramshaw).

(F) Referring to claims 21 and 22, Allison discloses a diagnostic medical image (col. 2, lines 24-42 of Allison) and a clinical application of medical diagnostic imaging (col. 5, lines 47-52 and col. 2, lines 24-42 of Allison).

(G) Referring to claim 23, Allison discloses wherein the medical information comprises operation of medical equipment (col. 2, lines 32-36 of Allison). Insofar as the claim recites “at least one of,” it is immaterial whether or not the other elements are also disclosed.

Conclusion


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



In
4-27-07



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